

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHERRY LESCH,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:07CV1121 CDP
)	
UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Following a bench trial, I entered judgment in favor of plaintiff Sherry Lesch and against defendant Louis Gumpenberger in the amount of \$695,878.53. I entered judgment in favor of the United States on Lesch's claims against the government, because I concluded that FBI Agent Dennis Rice was not negligent, and that Gumpenberger was 100% at fault for the automobile accident that caused Lesch's injuries. Lesch has now filed a motion to alter or amend the judgment under Rule 59(e), Fed. R. Civ. P., contending that my findings and conclusions showed manifest errors of fact and/or law.


I agree with plaintiff that I did make an error of fact, when I concluded that Lesch was still awaiting a determination on her application for Social Security benefits. Lesch testified at trial that she had been awarded disability benefits. My

finding to the contrary was therefore erroneous. This does not alter my conclusions regarding liability or the extent of Lesch's damages at all, however. Social Security benefits are awarded when one can show a disability that is permanent or expected to last at least a year. While Lesch certainly meets that definition now, it is not inconsistent with my conclusion that she will be able to work on at least a part-time basis at some point in the future.

Additionally, the arguments in Lesch's motion do not convince me that Rice was negligent or that he bears some fault for the accident. I set out my reasons in detail in the earlier opinion, and I continue to believe they are correct.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to alter or amend [#89] is denied.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of April, 2009.